# Before the Federal Communications Commission Washington, D.C. 20554

In the matter of	)	
INTERNATIONAL DATA COLLECTION, INC.	)	File No. 0002576996
Detition Con December 1 and in a C Don line	)	
Petition for Reconsideration of Pending	)	
Termination of License for Station WQFM833,	)	
San Diego, CA	)	
	)	

# ORDER ON RECONSIDERATION

Adopted: March 13, 2009 Released: March 16, 2009

By the Deputy Chief, Broadband Division, Wireless Telecommunications Bureau:

### I. INTRODUCTION

1. We have before us a Petition for Reconsideration and Waiver Request<sup>1</sup> filed by International Data Collection, Inc. (International Data Collection), requesting reconsideration of our placing in termination pending status<sup>2</sup> International Data Collection's microwave industrial/business pool station operating under license WQFM833 in San Diego, CA. For the reasons stated below, we dismiss the Petition as untimely.

## II. BACKGROUND

2. On August 21, 2006, the Wireless Telecommunications Bureau (Bureau) issued a microwave industrial/business pool license to International Data Collection.<sup>3</sup> On November 20, 2007, the Bureau sent a construction/coverage reminder letter to International Data Collection.<sup>4</sup> On March 26, 2008, the Bureau sent an auto-termination letter to International Data Collection and the license for station WQFM833 entered the auto-termination process.<sup>5</sup> On the same day, the Bureau provided public

<sup>4</sup> Construct/Coverage Reminder, Ref. No. 4681034 (Nov. 20, 2007).

<sup>&</sup>lt;sup>1</sup> See Petition for Reconsideration and Waiver Request, International Data Collection, Inc. (filed May 23, 2008) (Petition).

<sup>&</sup>lt;sup>2</sup> When a licensee fails to file a notification that it has completed construction by an applicable buildout deadline, the license, location, or frequency is placed in "termination pending" status. For a license, location, or frequency in that status, the Bureau presumes that the licensee did not meet buildout requirement. If the licensee does not file a petition for reconsideration within 30 days after public notice of the termination pending status demonstrating that it met that buildout requirement, the status of the license, location, or frequency is changed to "terminated" as of the buildout deadline. *See* Wireless Telecommunications Bureau Announces Deployment Of "Auto-Term," the Automated Feature in its Universal Licensing System That Identifies Unconstructed Stations Resulting in Automatic Termination of Licenses, *Public Notice*, 21 FCC Rcd 163 (WTB 2006).

<sup>&</sup>lt;sup>3</sup> See File No. 0002576996 (granted Aug. 21, 2006).

<sup>&</sup>lt;sup>5</sup> Auto Termination letter, Ref. No. 4726512 (Mar. 26, 2008).

notice of the pending license termination.<sup>6</sup> On May 23, 2008, the Bureau received International Data Collection's Petition.<sup>7</sup>

# III. DISCUSSION

- 3. Section 405(a) of the Communications Act, as implemented by Section 1.106(f) of the Commission's Rules, requires that a petition for reconsideration be filed within thirty days from the date of public notice of Commission action. Computation of the thirty-day period is determined in accordance with Section 1.4 of the Commission's Rules. Since public notice of the impending license termination was given on March 26, 2008, pursuant to Section 1.4(b)(4) of the Commission's Rules, the first day to be counted in computing the thirty-day period was March 27, 2008. The last day for filing a petition for reconsideration was April 25, 2008.
- 4. We received International Data Collection's petition on May 23, 2008. Therefore, we find that the Petition was filed late. Moreover, the Commission has consistently held that it is without authority to extend or waive the statutory thirty-day filing period for filing petitions for reconsideration specified in Section 405(a) of the Communications Act. Consequently, we conclude that the Petition filed by International Data Collection must be dismissed as untimely filed.

### IV. ORDERING CLAUSES

- 5. Accordingly, IT IS ORDERED that pursuant to Sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 405, and Section 1.106 of the Commission's Rules, 47 C.F.R. § 1.106, the Petition for Reconsideration and Waiver Request filed by International Data Collection, Inc., on May 23, 2008 IS DISMISSED.
- 6. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

John J. Schauble Deputy Chief, Broadband Division Wireless Telecommunications Bureau

<sup>8</sup> 47 U.S.C. § 405(a); 47 C.F.R. § 1.106(f).

<sup>9</sup> 47 C.F.R. § 1.4.

<sup>&</sup>lt;sup>6</sup> Wireless Telecommunications Bureau Site Based Licenses Termination Pending, Report No. 3942, *Public Notice* (Mar. 26, 2008) at 2.

<sup>&</sup>lt;sup>7</sup> Petition.

<sup>&</sup>lt;sup>10</sup> See Reuters Ltd. V. FCC, 781 F.2d 946, 951-52 (D.C. Cir. 1986). See also Petition for Amendment of the Commission's Rules to Establish First and Second Class Radiotelephone Operator Licenses, Order, 10 FCC Rcd 3196 (1995). We note the filing requirement of Section 405(a) of the Act applies even if the petition for reconsideration is filed only one day late. See, e.g., Panola Broadcasting Co., Memorandum Opinion and Order, 68 FCC 2d 533 (1978); Metromedia, Inc., Memorandum Opinion and Order, 56 FCC 2d 909, 909-01 (1975).